IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30/12/2003

CORAM

THE HONOURABLE MR.JUSTICE D.MURUGESAN

W.P.No.21224 of 2003 and W.P.No.21225 of 2003
and
W.P.M.P.No.26375/2003

Minor S. Sunayana represented by
Father and guardian S.Srinivasan .. Petitioner in both W.Ps.

-Vs-

1. The State of Tamil Nadu represented
by Secretary, Department of Education
Fort St. George, Chennai.9.

2. Selection Committee,
Director of Medical Education,
Kilpauk, Chennai.10.

3. Common Committee for Selection of
Students for MBBS 2003-2004
Anna University, Chennai.25.

4. Bhindu, Registration No.1534631

5. Sruthi, Registration No.1132682.

6. Sruthi, Registration No.1522185 ..... Respondents in
Both W.Ps.

W.P.No 21224/2003 is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of Declaration, declaring that Appendix III (1) and the allotment of marks for participation, achievements and over all championship in Appendix III 2(A), (B),(C) and (D) in the prospectus for MBBS/BDS Admission for the year 2003-2004 as illegal, unreasonable void and arbitrary.

W.P.Nos.21225 of 2003 is filed under Article 226 of the Constitution of India, praying for the issue of a Writ of declaration, declaring that the selection of respondents 4 to 6 under quota for eminent Sports Persons for the 1 year MBBS Course 2003/2004 is void, illegal, unreasonable and arbitrary and consequently, direct the respondents 1 to 3 to admit the petitioner to the 1 year MBBS Course 2003-2004 in any one of the Government Colleges in the State

of Tamil Nadu.

For Petitioner :: Mr.K. Chandrasekaran

For Respondents:: Mr.S.V.Duraisolaimalai
1 and 2 Govt. Advocate

For 3rd respondent.. M/s G.M. Mani
Associates

For 4th respondent ..Mr.Sriram

For 5th respondent .. Mr.C.R.Rajan

:ORDER

The petitioner applied for admission to the
First Year MBBS Degree Course under seats earmarked for eminent Sports Persons. Her Cut off mark is 285.85 out of 300. The grievance of the petitioner is that after the eligibility for admission under eminent Sports person category, the candidates so found eligible should be selected and admitted only on the basis of academic marks and not on the basis of the marks awarded for the certificates in Sports. According to the petitioner, for the three seats, the following is the comparative chart of marks of the petitioner and the selected candidates:

	Total Marks	Secured marks
1. Petitioner	300	285.85
2. 4th respondent	300	251
3. 5th respondent	300	233
4. 6th respondent	300	213

2. The respondents 4 to 6 who have secured lesser academic marks have been selected as they secured higher marks for the excellence in Sports. Hence the petitioner has filed W.P.No.21224/2003 for a Writ of Declaration, declaring that Appendix III (1) and the allotment of marks for participation, achievements and over all championship in Appendix III 2(A), (B), (C)and (D) in the prospectus for

MBBS/BDS Admission for the year 2003-2004 is illegal, unreasonable, void and arbitrary. The petitioner has also filed W.P.No.21225/2003 for declaration that the selection of respondents 4 to 6 is illegal, unreasonable and arbitrary and for consequential direction to the respondents 1 to 3 to admit her in the MBBS Course for the academic year 2003-2004.
3. The question for consideration in these Writ Petitions is as to whether

after the award of marks to the excellence in sports on the basis of the certificates produced by the candidates viz., eminent Sports Persons and found them eligible for consideration for admission under the quota, the further selection and admission should be made on the basis of the marks awarded to the excellence in Sports or on the basis of the academic marks. Similar question came up for consideration before this Court in the judgment reported in KHALID HUSSAIN VS COMMISSIONER AND SECRETARY, GOVERNMENTOF TAMIL NADU HEALTH DEPARTMENT (A.I.R. 1987 W.L.R.91). Considering the fact that once the candidates are categorized depending upon the level of their achievement, this Court held that there is absolutely no possibility of further invidious distinction in determining the eminence in that particular category. That judgment also arose in respect of selection of candidates against the seats earmarked for eminent Sports Persons. The said judgment was confirmed by a Division Bench in W.A. No.1307/1986. The said judgment of the Division Bench was again taken to Apex Court and the Apex Court has confirmed the judgments in the judgment reported in A.I.R. 1987 SC 2074.

4. It is argued by Mr.P.Chandrasekaran, the learned counsel for the petitioner that in view of the categorical pronouncement,namely, after the candidates are brought under Zone of Consideration on the basis of their eligibility for admission to seats earmarked for eminent Sports person, the further selection and admission shall be made only on the academic marks. To appreciate the said submission, the facts of Khalid Hussain Case need a reference. Annexure 1(3) of the prospectus for admission for the academic year 1986-1987 reads as under:

" Annexure-1(iii) Eminent Sportsman Special Category". In the sub-Column (iii) under the Caption Eminent Sportsman, there are three

Categories, namely,
(a)Participation at International Level the candidate being sponsored By national body;
(b)Participation at National level the candidate being sponsored by a State body or University;
(c) Participation at State level the candidate being sponsored by Zonal or District Association.

5. From the reading of the above prospectus, it is seen that though the seats were earmarked for eminent Sports Person, except the three categories viz., (1) Participation at International level, the candidate being sponsored by a national body, (2) Participation at national level, the candidate being sponsored by a State Body of University and 3) Participation at State level, the candidate being sponsored by Zonal or District Association,there are no guidelines were provided by which comparative eminence can be judged as between the candidates belonging to the same category. The Apex Court has therefore held that in the absence of guideline to award of marks for

excellence in Sports, the admission shall be made on the basis of academic marks and allowing admissions only on the basis of marks awarded to the certificates would leave the discretion to the Executive in making the choice.
Para 5 of the judgment reads as under:
5??. It has to be pointed out that the rule itself does not provide for determination of comparative eminence as between different candidates falling within the same class but as between sportsmen who have participated t International level, National level and State Level. It only provides for the rule of exclusion of one by the other. There are no guidelines provided by which comparative eminence can be judged as between candidates belonging to the same class e.g., at National level, as here. Nor does it provide for any guidelines by which the choice has to be made as between the candidates who have excelled in a particular field of sports e.g. acquatics. The real difficulty arises when there are more than one candidates who have excelled in their respective fields of sports e.g. Cricket, foot-ball, hockey etc. and the number of seats reserved are less than the candidates found eligible. All of them being more or less equal, the best method is to go by marks obtained at the qualifying examination. In such a case, the selection must necessarily depend upon their academic merits. Even in P.Sabitha's case, the Court realized the difficulty to lay down any Guidelines for adjudging comparative eminence Between sportsmen falling within the same class and it was said that when candidates are shown to have attained equal proficiency in sports, then their academic superiority can be pressed into service as a tilting factor in their favour.

6.Coming to the prospectus for the academic year 2003-2004, after prescribing the order of preference viz., Participation at International level, National level and State level, the prospectus further provides the method of scrutinizing the certificates and award of marks:
Appendix-III
Selection of Candidates under Quota for Eminent Sports Persons-2003

1.As the purpose of this quota is to recognize and give weightage to the sports eminence of the candidate, sports mark alone will be considered in ranking the candidate. The candidate is expected to show performance in sports, if selected.
2. Selection of the candidates will be based on the marks obtained by the

candidates following the guidelines given in the table below:
(A) Marks for (each) Participation:
-- -- Category International National
(Representing (Representing
Nation) State)
- -
Individual 20 10
Team 10 5
- -
(B) Marks for (each) achievement:
- -
International National State
(Representing (Representing (Representing
Nation State Revenue Dist.
- -

Cate- Gold Silver Bronze Gold Silver Bronze Gold Silver Bronze
gory
Indivi- 60 40 20 40 27 13 27 18 9
dual
Team 30 20 10 20 13 7 13 9 5
- -
Other Recognised National/State Level
Sports Meet (C) Marks for (each)achievement

- -
Sl.No. Sponsor Category Gold Silver Bronze
- -
1.School Games Federation
Of India (SGFI) Individual 30 20 10
(National Level) Team 15 10 5
2.All India Rural Individual 30 20 10
Sports (National Team 15 10 5
Level
3. Bharathiyar Day Individual 20 13
Sports Meet (State Team 10 7 4
4.Republic Day Sports Individual 20 13 7
Meet(State Level) Team 10 7 4
- -
(D) Marks for overall Championship
- -
Category International National State
(representing Nation) (representing (representing
State Revenue Dist.
- Championship 30 25 20
- ==
7. From the above, it is seen that specific regulations, guidelines are prescribed for awarding marks to the participation, achievements and overall championship. When the method for award of marks is provided and the guidelines prescribed, the judgments relied upon by the learned counsel for the petitioner cannot be made applicable to the facts of this case. As

already pointed out, the said judgment was rendered in a case where no guidelines for awarding marks to judge the comparative eminence in sports were prescribed.

8. The Government being the funding agency, is entitled to identify the source for admission. Reservation for special category is made under Article 15(4) of the Constitution of India and is "Horizontal Reservation". Even while filling the seats earmarked as "Horizontal Reservation" social reservation under Article 15(1) is followed only when such reservation is "Compartmentalised Horizontal Reservation" and not "Overall Horizontal Reservation". Such Reservation for eminent Sports Persons is only to recognise the excellence/achievements in sports and to encourage sports and games among students. Once the eligibility for admission under Sports Category is determined, the selection and admission shall be based on the marks obtained for the excellence in sports only. There cannot be a further classification on the basis of academic marks for selection and admission. Hence, the arguments of the learned counsel for the petitioner deserve to be rejected.

9. For the above reason, I do not find any merit in the challenge to the prospectus. Equally, I am unable to find any illegality in the selection of candidates viz., respondents 4 to 6 on the basis of the marks awarded for their participation in the sports. Accordingly, both the Writ Petitions fail and are dismissed. No costs. Consequently, W.P.M.P.No.26375/2003 is closed.

Index: Yes
Website: Yes

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To

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